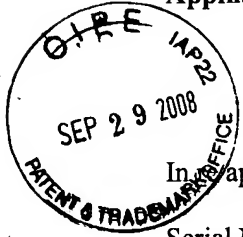


VIA-002-PAP
Appln. No. 10/618,079

Submission Date: September 24, 2008
Comments on Allowability Statement of June 25, 2008



In application of: **Shen, et al.**

Confirmation No.: **3636**

Serial No.: **10/618,079**

Group Art Unit: **2617**

Filed: **July 10, 2003**

Examiner: **Miller, Brandon J.**

For: **Method and Apparatus Estimating Cell
Interference and Noise for CDMA Packet Data Channels**

In accordance with 37 C.F.R. 1.8, I hereby certify that this correspondence and all its attachments are being deposited on **Wednesday, September 24, 2008** with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Barbara Kelly 9/24/08
Barbara Kelly Date

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

COMMENTS ON EXAMINER'S 2nd STATEMENT OF REASONS FOR ALLOWANCE

Dear Sir:

This supplemental paper provides Comments in respect of a statement of reasons for the indication of allowable subject matter set forth by the Examiner in section II, pages 2-6 of a Notice of Allowance issued June 25, 2008 ("the Notice of Allowance"). Please consider the comments on that Examiner's Statement of Reasons, as set forth below.

Remarks begin on page 2 of this paper.

COMMENTS ON EXAMINER'S 2nd STATEMENT OF REASONS FOR ALLOWANCE

The following remarks are similar to those previously submitted May 2, 2008 in response to a first Statement of Reasons for Allowance set forth in section II of the Office Action issued March 26, 2008 ("the March 26 Office Action") beginning on page 2. Those previous Comments apparently did not reach the Examiner before he issued a Notice of Allowance with a second Statement of Reasons for Allowance that is similar to the first Statement, but is in a different format. Due to the change in format, the fact that the Applicants' previous Comments are applicable to the new Statement of Reasons for Allowance might not be apparent. Accordingly, the remarks below become necessary to avoid confusion, though they are generally similar to those set forth in the previous (first) Comments on Examiner's Statement of Reasons for Allowance that was submitted May 2, 2008.

The new (2nd) Statement of Reasons for Allowance is set forth in the Notice of Allowance issued June 25, 2008, in section II extending from pages 3-6. There, in respect of each of the independent Claims 1, 14, 27 and 40 the Examiner properly notes that the features described in such claim "comprise[] a particular combination of elements, which is neither taught nor suggested by the prior art." However, in each case the Examiner seems to additionally imply something that is not correct: that the claimed structure (Claims 1 and 14) or steps (Claims 27 and 40) are "as defined in the specification (pages 7-14). This would be proper if any of the Claims invoked 35 USC 112 paragraph 6 as a "means plus function" or "step plus function" claim, at least if it was broadened to include equivalents as provided in that section. However, none of these claims are means- or step- plus function claims. As such, the specification serves to enable the invention, and provides one or more exemplars of the invention, but does not limit the claimed invention. Instead, the invention is defined by the broadest reasonable literal interpretation of the claim terms, as they may be limited by the prosecution history. No other limitation is proper, and the Applicants do not understand any other limitation to truly be intended.

Instead, it is believed that the Examiner considered and allowed the present claims based on the full scope of the claim terms, when interpreted as broadly as is reasonable in view of the specification and any prosecution statements by the Applicants' representative(s). The error is believed to be merely pro forma.

Conclusion

The remarks set forth above address the Examiner's Statement of Reasons for Allowance. It is assumed that the Examiner did not rely upon any limitation of claim scope that could be construed as

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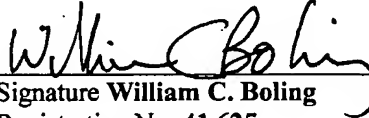
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implied by the phrases " ... as defined in the specification (pages 7-14)." In any event, the remarks above clarify that the Applicants do not concede any such limitation on the scope of the claims.

The Commissioner is authorized to construe this paper as including a petition to extend the period for response by the number of months necessary to make this paper timely filed. Fees or deficiencies required to cause the response to be complete and timely filed may be charged, and any overpayments should be credited, to our Deposit Account No. 50-0490.

Respectfully submitted,

Date: 9/24/2008
September 24, 2008


Signature William C. Boling
Registration No. 41,625

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